

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

October 24, 2007

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No. 06-20607  
Conference Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

WENDELL ALBOYD CORNETT

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:95-CR-265

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Before JOLLY, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:\*

Wendell Alboyd Cornett, federal prisoner # 04675-081, requests leave to proceed in forma pauperis (IFP) on appeal. The district court denied Cornett's motion seeking a modification of his sentence, which was imposed in 1995, and it also denied his motion to proceed IFP on appeal. In order to obtain leave to proceed IFP, Cornett must show that he is a pauper, and he must raise a

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

nonfrivolous issue. See *Jackson v. Dallas Police Dep't*, 811 F.2d 260, 261 (5th Cir. 1986).

Cornett argues that his sentence was imposed in violation of his constitutional rights because it was increased based on facts not admitted by him or found by the jury. He contends that the district court improperly applied the Sentencing Guidelines and sentenced him beyond the maximum range permitted under the Guidelines. Cornett asserts that he is actually innocent of the sentence imposed, and he contends that the district court had authority to correct his sentence under FED. R. CRIM. P. 35, 18 U.S.C. § 3742, and 28 U.S.C. § 1291.

Because the law has no provision for a motion such as Cornett's, his appeal is "from the denial of a meaningless, unauthorized motion." *United States v. Early*, 27 F.3d 140, 142 (5th Cir. 1994). Cornett's appeal is without arguable merit and is thus frivolous. *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, Cornett's request for leave to proceed IFP is denied, and the appeal is dismissed. See 5TH CIR. R. 42.2.

IFP DENIED; APPEAL DISMISSED.